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09/370,619	08/07/1999	MICHAEL DAVID ERLANGER	3	8285

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EXAMINER

AKERS, GEOFFREY R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application 09/370619	Applicant(s) Cr/Angel	
	Examiner Athey, G	Art Unit 3624	Confirmation No.

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- ☒ Responsive to communication(s) filed on 4/4/03
- ☒ This action is FINAL. ☐ This action is non-final.
- ☐ Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- ☒ Claim(s) 158-185 is/are pending in this application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 158-185 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved or ☐ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are ☐ accepted or ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received:
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- ☐ The translation of the foreign language provisional application has been received.
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

*[Signature]*

6/9/03

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**DETAILED ACTION**

***Response to Amendment***

1. This action is issued in response to applicant's amendment C(Paper #22) filed 4/2/03.
2. Claims 39-139 were cancelled. New claims 158-185 were added.
3. Claims 158-185 are pending.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 158-185 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser(U.S. Pat. 5,995,947) in view of Zandi(US Pat. No: 5966,699) and further in view of Gottesman(US Pat. No: 6,049,782) and further in view of IMEX(February, 1999). The Rejection cited in Paper #20 is maintained.

Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq), and comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq). Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column

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11, line 25 et seq; column 12, line 15 et seq), compiling and outputting multiple statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq). receiving multiple loan sale offers (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), receiving multiple offers to buy a loan (e.g., column 1, line 15 et seq; column 2, line 25 et seq), receiving a loan solicitation (e.g., at 5221) (e.g., column 9, line 36 et seq), comparing loan solicitation and multiple lender criteria (e.g., column 11, line 25 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq). Fraser et al also disclose price decrease as fee measure increases (e.g., loan amount) (e.g., column 14, line 53 et seq), receiving loan solicitations (e.g., at S221) (e.g., column 9, line 36 et seq), compiling second multiple statistic sets (e.g., column 2, line 37 et seq; column 12, line 15 et seq), loan offers and bids (e.g., column 2, line 20 et seq), outputting indicium of loan seeker identify to lender (e.g., column 13, line 50 et seq), receiving an offer to buy a loan (e.g., a bid) (e... column 13, line 4 et siq), earning a fee (e.g., column 14, line 49 et seq). Fraser et al are deemed to disclose an offer to sell and buy loans, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of

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ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading with multiple parties as a means of vertically integrating the method and market to include multiple secondary mortgage market participants (e.g., column 1, line 16 et seq). Fraser et al disclose a method, including receiving multiple lender criteria (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), receiving an multiple offers to sell (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), lending and trading (e.g., column 1, line 16 et seq), and variable fee structure (e.g., column 14, line 49 et seq). Fraser et al do not disclose specific reduced fee structure based on coordinated lending and trading by a party. To the extent that such a fee structure would not have been obvious to one of ordinary skill in the art at the time of the invention (e.g., to encourage and reward multiple transactions by users, to facilitate transaction pricing of users), Gottesman et al, U.S. patent 6,049,782 disclose a method including outputting an indicium that a first portion of a fee is credited against a second measure of fees based on a user's maintenance of multiple business/transactional relationships with a financial institution(checking account, savings account, CD's, mortgages)(col 2 line 7 et seq). Volume discount of service fees provide and improved means to encourage and reward customer/user loyalty(Gottesman(col 3 line 20 et seq). IMEX teaches the trading of loans on an exchange providing access to lenders who best match the requirements of a mortgage broker(page 2) as well as addressing origination and secondary trading on the exchange among market participants(page 3)(page 5)(page 8) with seach engine qualifying software(page 11) and underwriting parametric definitions (pages 11-14).Zandi further teaches the auctioning of

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multiple loans on the secondary market on a computer network(Abstract)(col 2 lines 12-67).It would have been obvious to one skilled in the art at the time of the invention to combine Fraser in view of Gottesman to teach part of the above.The motivation to combine is to teach a system for optimizing a financial customer's portfolio through relationships at a financial institution as a bank, one of which is the loan requirement through the use of search engines on all aspects of a client's account as enunciated by Gottesman(col 3 line 20-col 4 line 65). Furthermore it would also have been obvious to combine Fraser in view of Gottesman and further in view of IMEX to teach all the disclosure. The motivation to combine is to teach a loan trading auction system for market participants including clients for loans which incorporates underwriting(pagesd 11-14) as enuinciated by IMEX.And it would also have been obvious to combine Fraser in view of Gottesman in view of IMEX and further in view of Zandi to teach all of the above. The motivation to combine is to teach an electronic loan auction system for market participants using a network which incorporates secondary loan trading as enunciated by Zandi(Abstract)(col 2 lines 12-67)(Fig 4A)(Fig 4B).

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7 Claims 158-185 are further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More precision is needed to accurately define the processes involved and distinguish them over cited art.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 158-185 are also rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. A complete description is needed to detail exactly how the application is being enabled with respect to the calculation of fees using the statistics cited.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period